

1 FINANCE AND ADMINISTRATION CABINET

2 Department of Revenue

3 (Amendment)

4 103 KAR 27:180. Vending machines.

5 RELATES TO: KRS 139.010, 139.470

6 STATUTORY AUTHORITY: KRS 131.130(1)~~[KRS Chapter 13A]~~

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(1) authorizes the Department of
8 Revenue to promulgate administrative regulations to administer and enforce Kentucky's tax laws. This
9 administrative regulation provides guidance to [Fe-]interpret the sales and use tax law as it applies to sales
10 of tangible personal property through vending machines.

11 Section 1. Persons who own vending machines which dispense tangible personal property, or operators
12 of such machines under lease or rental agreements, must obtain a permit to engage in the business of selling
13 tangible personal property and must report and pay to the department the tax upon the gross receipts from
14 sales made through such machines. One (1) permit is sufficient for all machines of one (1) owner or
15 operator.

16 Section 2. The owners or operators of vending machines shall be responsible for reporting and paying
17 the tax on the total gross receipts even though the owner or operator of the place in which the machines are
18 located receives a share of such gross receipts under a commission or concession contract. In reporting and
19 paying such tax, the owner or operator shall be deemed the agent of the operator or owner of such place of
20 business in which the machine is located to the extent of commissions due the latter. Gross receipts from
21 sales of tangible personal property made in portions of fifty (50)~~[twenty-five (25)]~~ cents or less through

1 coin operated bulk vending machines where unsorted merchandise is dispensed in approximately equal
2 portions are exempt from the sales and use tax (KRS 139.470(6)).

3 Section 3. A statement in the following form must be affixed upon each vending machine in a
4 conspicuous place: "This vending machine is owned (operated) by _____ Owner (Operator), _____
5 Place of Business of Owner (Operator), who holds Permit No. _____, issued pursuant to the Sales and Use
6 Tax Law."

7 Section 4. If the owner or operator of vending machines also places upon each machine a statement that
8 the sales tax is included in the price of the property dispensed, he may compute his liability for the tax in
9 the same manner as all other retailers who separately state the tax.

10 Section 5. Adequate and complete records must be kept by the owner or operator showing the location
11 of each vending machine owned or operated by him, the serial number thereof, purchases and inventories
12 of merchandise bought for sale through such machine, and the gross receipts derived from each location
13 during each tax period.

103 KAR 27:180

APPROVED BY AGENCY:

Daniel Bork
DANIEL P. BORK, COMMISSIONER
Department of Revenue
Finance and Administration Cabinet

Oct 6, 2017
Date

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held on November 28, 2017, at 1:00 p.m. in Room 11A, State Office Building, Frankfort KY 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through November 30, 2017. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Lisa Swiger, Tax Policy Research Consultant, Department of Revenue, 501 High Street, Station 1, Frankfort, Kentucky, 40601, (502) 564-9526 (telephone), (502) 564-3875(fax), Lisa.Swiger@ky.gov(email).

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Regulation No. 103 KAR 27:180

Contact Person: Lisa Swiger
Phone Number: (502) 782-5705
Email: Lisa.Swiger@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation is an amendment that updates regulatory language to conform to statutory language revisions.

(b) The necessity of this administrative regulation: The amendment is necessary to update outdated regulatory language and information currently contained in the regulation.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The proposed amendment updates regulatory language to conform with KRS 131.130.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The proposed amendment updates regulatory language to address outdated information currently contained in the regulation.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The current version of 103 KAR 27:180 contains an incorrect statutory authority reference to KRS 13A instead of KRS 131.130, and an outdated reference to certain gross receipts exempt from sales tax. KRS 139.470 was amended in HB 253 of the 1998 session of the Kentucky General Assembly to exempt "Gross receipts from sales of tangible personal property sold through coin-operated bulk vending machines, if the sale amounts to fifty cents (\$0.50) or less, if the retailer is primarily engaged in making the sales and maintains records satisfactory to the department." Currently, 103 KAR 27:180 contains the former amount prior to HB 253 of "twenty-five (25) cent or less" of these transactions are exempt. The proposed amendment updates this regulatory language to correct only these two issues.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to update outdated regulatory language and information currently contained in the regulation.

(c) How the amendment conforms to the content of the authorizing statutes: The proposed amendment updates regulatory language to provide current information found in the authorizing statutes to conform to KRS 131.130 and KRS 139.470.

(d) How the amendment will assist in the effective administration of the statutes: The proposed amendment updates regulatory language to address outdated information currently contained in the regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local

governments affected by this administrative regulation: All owners or operators of vending machines who must report the sale of tangible personal property through vending machines for sales tax purposes.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No actions are necessary to comply with the amendment.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no cost to comply with the amended regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Anyone who accesses the amended regulation will benefit from the updated information contained therein.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: There is no cost to implement the proposed amendment beyond the use of current staff and currently budgeted department funding.

(b) On a continuing basis: There is no cost expected on a continuing basis.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current department budgeted funding and staff will provide the implementation and enforcement of this administrative regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There is no additional cost to implement and enforce the proposed amendment.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees are directly or indirectly established or increased by the proposed amendment.

(9) TIERING: Is tiering applied? (Explain why or why not): Tiering is not applicable as the proposed amended regulation will be equally applied to all taxpayers affected by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation No. 103 KAR 27:180

Contact Person: Lisa Swiger

Phone Number: (502) 564-9526

Email: Lisa.Swiger@ky.gov

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Finance and Administration Cabinet, Department of Revenue.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 131.130 and KRS 139.470.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? There is no expected increase in revenue for any office, district or government entity.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? No additional costs will be incurred in the first year of this regulation being in effect.

(d) How much will it cost to administer this program for subsequent years? No additional costs will be incurred in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: